

---

**Subject:** ACTION ALERT: Ask Legislators to Support TBA Legislation to Protect Lenders during HOA Foreclosures

**From:** Tim Amos



To: TBA Government Relations Committee and Bank Executives

From: Tim Amos, General Counsel

Please contact your lawmakers and encourage their support of TBA legislation that would protect lenders' lien priority in HOA foreclosure proceedings. Current law allows for HOAs to take priority over and potentially extinguish a lienholder's interest.

FHFA has issued guidance warning states against laws that could jeopardize their lien priority during an HOA foreclosure. TBA is working to proactively amend state law to ensure the interests of Tennessee banks as well as Fannie Mae and Freddie Mac are protected in the event an HOA forecloses. Failure to adjust our laws as a reaction to the FHFA guidance could jeopardize the willingness of the GSE's to purchase paper in our state.

The legislation ([SB 2397 by Overbey / HB 2401 by Travis](#)) would preserve HOAs' ability to foreclose and to collect up to six months of delinquent dues or one percent of the original indebtedness, whichever is lower, but it would also provide that mortgages would not be extinguished. It also would provide HOAs a right receive a "payment priority" of the same amount of delinquent dues if a lender forecloses.

On Wednesday the House Business and Utilities Subcommittee passed HB 2401 despite strong opposition from Community Associations Institute, the national association representing HOAs.

HB 2401 will be heard by the full House Committee next Wednesday, March 23. SB 2397 is scheduled in the Judiciary Committee on Tuesday, March 22.

Please contact members of those committees and encourage them to support SB 2397 and HB 2401. We need to pass this legislation to preserve GSE participation in the state, protect lenders' interests and satisfy FHFA's concerns with Tennessee laws.

If you receive feedback from any members, please let [Tim Amos](#) or [Amy Heaslet](#) know.

**Read the FHFA warnings against HOA liens:**

[Statement on Certain Super-Priority Liens \(12/22/2014\)](#)

[Statement on HOA Super-Priority Lien Foreclosures \(4/21/2015\)](#)

**Contact Senate and House Committee Members:**

[Senate Judiciary Committee Members.](#)

[House Business and Utilities Committee Members.](#)

**Senate Judiciary Committee Members:** Brian Kelsey (Chair), Doug Overbey (bill sponsor), Janice Bowling, Mike Bell, Todd Gardenhire, Lee Harris, Sara Kyle, Kerry Roberts, John Stevens.

**House Business & Utilities Committee Members:** Pat Marsh (Chair), Kent Calfee, Martin Daniel, Barry Doss, Kevin Dunlap, Tilman Goins, Marc Gravitt, Patsy Hazlewood, Harold Love, Gerald McCormick, Jason Powell, Jerry Sexton, Mike Sparks, Art Swann, Jason Zachary.

*Click the committee links above for email/phone number for members*